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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,050	12/21/2001	David Carlton Moore	088305-0144	5341

22428 7590 05/18/2005

FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER
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TRAN, QUOC A

ART UNIT	PAPER NUMBER
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2176

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/024,050

Applicant(s)

MOORE, DAVID CARLTON

Examiner

Quoc A. Tran

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is responsive to Amendment A filed 01/13/2005.
2. Claims 1-28 are pending. Claims 1, 8, 13, 19, 24 and 25 are independent claims.

### ***Response to Argument***

3. Applicant's arguments, filed 01/13/2005, with respect to the rejection(s) of claim(s) 1-28 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims invention set forth non-functional descriptive material but fails to set forth physical structures or materials comprising of hardware or a combination of hardware and software within the technological arts (i.e. a computer) to produce a "useful, concrete and tangible" result. Claims 1-3, are interpreted as software per se, abstract ideas or mental construct and not tangibly embodied on a computer readable medium or hardware.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 8, 13, 19 and 24-25** are rejected under 35 U.S.C. 102(e) as being anticipated by Morimoto US 20010023412A1 filed 03/15/2001 (hereinafter Morimoto).

**In regard to independent claim 1, providing an image on said display, (as taught by Morimoto at page 4, paragraph [0045]; and identifying via an identifier on said display a status of said image said identifier being viewable only during a predetermined time criteria (as taught by Morimoto at page 4, paragraphs [0046]-[0048].**

**In regard to independent claim 8, incorporate substantially similar subject matter as cited in claim 1 above, and further view of the following, and is similarly rejected along the same rationale, and embedding a link to an identifier for identifying on said display a status of said image, wherein said embedded link expires when said time criteria is satisfied (as taught by Morimoto at page 2 paragraph [0017] and page 3, paragraph [0036], i.e. a browser allowing the web pages to be browsed on a screen over the network; wherein the digital contents are incorporated into the control program in response to intensifying buyer**

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personal information, identifying the digital content that was selected by buyer. It is inherent that an embedded link presenting in order for a particular web page to be browened on a computer screen through the Internet).

**In regard to independent claim 13**, incorporate substantially similar subject matter as cited in claim 1 above, and further view of the following, and is similarly rejected along the same rationale, **providing an image on a computer screen** (as taught by Morimoto at page 4, paragraph [0045]).

**In regard to independent claim 19**, incorporate substantially similar subject matter as cited in claims 1 and 8 above, and is similarly rejected along the same rationale.

**In regard to independent claims 24-27**, incorporate substantially similar subject matter as cited in claims 1 and 8 above, and are similarly rejected along the same rationale;

**generating an image to be depicted on said WebPage**, (as taught by Morimoto at page 3, paragraph [0036]).

**In regard to dependent claims 4-7and 15-18**, incorporate substantially similar subject matter as cited in claims 8, 24-25 above, and are similarly rejected along the same rationale.

**In regard to dependent claims 10-12and 21-23**, incorporate substantially similar subject matter as cited in claim 24 above, and are similarly rejected along the same rationale;

**automatically expiring after a pre-determined maximum time limit**, (as taught by Morimoto at page 5, paragraph [0051]).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2, 9, 14, 20 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable by Morimoto US 20010023412A1 filed 03/15/2001 (hereinafter Morimoto), in further view of Matthews, III et al. US006025837A filed 03/29/1996 (hereinafter Matthews).

**In regard to dependent claim 2**, Morimoto does not explicitly teach, **wherein a status comprises one of a new image, an altered image, and a current image**, however (as taught by Matthews at col. 9, lines 1-15, i.e. as illustrated in Fig. 5 as an example of the Electronic Program Guide (EPG) User Interface (UI), includes a means of displaying different program grid consistent of multiple program titles in the time-based grid, which could be interpreted as claimed).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified teaching of Morimoto, wherein the digital distribution system, to include a means of an interactive entertainment system, wherein EPGUI visually displaying listings of programs available on the different available channels arranged in a time-based grid. One of ordinary skill would be motivated to perform such a modification provides users the ability to utilizing the annotation system to transmit the capture screen across the

Internet/www for immediate viewing of digital content (as taught by Morimoto at page 1, paragraph [0007].

**In regard to dependent claims 9, 14 and 20**, incorporate substantially similar subject matter as cited in claim 2 above, and are similarly rejected along the same rationale.

**In regard to dependent claim 28**, Morimoto does not explicitly teach, **wherein said time criteria is a hit count**, however (as taught by Matthews at col. 11, lines 35-50, i.e. in another embodiment of the invention, if the a program has more than one target resources, then counting hits on each target specification and prioritizing based upon this hit count in collaborating with time-based).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified teaching of Morimoto, wherein the digital distribution system, to include a means of an interactive entertainment system, wherein EPGUI visually displaying listings of programs available on the different available channels arranged in a time-based grid base upon hit count. One of ordinary skill would be motivated to perform such a modification provides users the ability to utilizing the annotation system to transmit the capture screen across the Internet/www for immediate viewing of digital content (as taught by Morimoto at page 1, paragraph [0007].

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quoc A. Tran whose telephone number is (571) 272- 4103. The examiner can normally be reached on Monday through Friday from 8:30AM to 5:00PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Quoc A. Tran*

*Patent Examiner*

*Technology Center 2176*

**May 16, 2005**



**SANJIV SHAH  
PRIMARY EXAMINER**